

**(2015) 02 MEG CK 0007**  
**In the Meghalaya High Court**  
**Case No : Writ Petition (C) No. 36/2014**

Kerwith Marak

APPELLANT

Vs

State of Meghalaya and Others

RESPONDENT

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**Date of Decision :** 18-02-2015

**Acts Referred:**

**Citation :** (2015) 02 MEG CK 0007

**Hon'ble Judges :** T. Nandakumar Singh, J.

**Bench :** Single Bench

**Advocate :** K.P. Bhattacharjee, GA, Advocates for the Respondent

**Final Decision :** Allowed

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## Judgement

T. Nandakumar Singh, J.—None appears for the petitioner.

Heard Mr. K.P. Bhattacharjee, learned GA appearing for the State respondents.

2. The prayer sought for in the present writ petition is for a direction to the respondents to extend the benefits under the Meghalaya Regular Casual Workers Scheme 1996 formulated vide office Memo No. PER (AR) 36/95/70-A dated 16.09.1996 to the petitioner.

3. The Govt. of Meghalaya framed the scheme called "Meghalaya Regular Casual Workers Scheme 1996" under office memorandum No. PER (AR) 36/95/70 dated 16.09.1996, which reads as follows:-

"GOVERNMENT OF MEGHALAYA PERSONNEL AND ADMV. REFORMS (B) DEPARTMENT

No. PER(AR)36/95/70 Dated Shillong, the 16th September, 1996

OFFICE MEMORANDUM

Subject:- CASUAL.MUSTER ROLL WORKERS :: WAGES AND BENEFITS

Government have for sometime been considering the desirability of conferring

benefits on muster-roll and other casual workers (by whatever name called) who are working in different Departments and offices of the State Government. At present such casual workers are getting only wages and no other benefits. Therefore, after due consideration it has been decided that the following scheme, called the Meghalaya Regular Casual Workers Scheme, 1996 which will confer certain benefits on the workers according to provisions thereof be adapted with immediate effect.

#### THE MEGHALAYA REGULAR CASUAL WORKERS SCHEME, 1996

1. Name, commencement and application. The scheme shall be called the Meghalaya Regular Casual Workers Scheme, 1996. It shall come into force on the date of its publication in the Official Gazette. It shall apply to Casual Workers employed in the departments and offices of the Government of Meghalaya.

2. Explanation. For the purpose of the scheme-

(a) "Casual Worker" means a person who by any nomenclature called is employed for doing work on a daily wage basis.

(b) "Regular Casual Worker" (RCW) for short means a person conferred such a status as provided in paragraph 3 of this scheme.

3. Conferment of the status of an RCW. (1) a Casual Worker who has immediately before the date of coming into force of this scheme been working as such for a continuous period of not less than ten years may be conferred with a status of a Regular Casual Worker from such date, not being a date earlier than the date this scheme came into force, as the appointed authority may by order specify. For calculating the period of five years absence or cessation of work for the period of not more than thirty days in year shall be reckoned as period spent in work.

(2) Conferment of an RCW status on any Casual Worker shall be made on the basis of records available in the office of the appointing authority and, wherever necessary, further documentation for the purpose of verification of age, initial employment and other particulars may be called for from the Casual Worker concerned. Conferment of the status shall be without reference to availability or creation of post and an RCW will continue to perform duties of a Casual Worker anywhere within the jurisdiction of the appointing authority. An RCW shall be paid wages at rates as may be fixed by the State Government under the Minimum Wages Act from time to time for unskilled labour.

Whenever a Casual Worker is conferred with the status of an RCW no substitute shall be appointed in his place. Any appointment to the contrary will be viewed seriously and the authority making such appointment shall be held personally responsible for violation of the provision of this scheme.

4. Leave and other benefits. (1) An RCW shall be entitled to earned leave on pro rate basis at the rate of one day for every fifteen days spent on work and such

leave may accumulate upto a maximum of one hundred and twenty days only. An RCW may avail earned leave with prior sanction of the appointing authority and shall be paid full wages for the period of leave so availed of.

(2) An RCW shall also be entitled to leave of absence upto a maximum of fifteen days in a year but no wages shall be admissible for such period of absence.

(3) A lady RCW shall be entitled to maternity leave as in the case of Group I employees of the State Government.

(4) After working for a continuous period of not less than five years as such, an RCW will be entitled to festival advance and children education advance as in the case of Group D employees of the State Government.

5. Appointment to Group D posts. (1) When vacancies in Group D posts arise in any Department or offices, fifty per cent thereof shall, subject to rules, orders and instructions as State Government may from time to time issues, be filled up from amongst the RCWs working in that Department or office as case may be and possessing the required qualifications. The maximum age limit in such a case shall be relaxed by the total number of years served continuously as a Casual Worker and as an RCW. Subject to suitability criteria, the vacancies amongst the RCWs shall be filled up in the order of their total length of such continuous service.

(2) When an RCW is appointed to a Group D post half of the service rendered as an RCW will be added to the length of service rendered in the Group D post for the purpose of retirement benefits. Further, the earned leave referred to in paragraph 4(1) of this scheme which may be remaining at his credit on the date of such appointment will be carried over and added to the leave he may subsequently earn in the Group D post.

6. Cessation and Dispensation of Services. (1) An RCW shall cease to be employed on his attaining the age of 58 years.

(2) The services of an RCW may be dispensed with by the appointing authority by giving a one month advance notice stating therein the reasons therefor.

Power of interpret or relax the rules. Personnel and Administrative Reforms Department shall have the power to interpret, relax or amend any of the provisions of this scheme as may be considered necessary and any decision it takes shall be final and binding.

Sd/- W.M.S. Pariat Commr. and Secretary to the Govt. of Meghalaya, Personnel and Admv. Reforms (B) Department.

Memo No. PER (AR)36/95/70-A, Dt. Shillong, the 16th September, 1996 Copy to:-

1. The Director, Printing and Stationery, Meghalaya, Shillong for publication in the Meghalaya Gazette.

2. Secretary to the Govt. of Meghalaya, Public Works Department.

3. Secretary to the Govt. of Meghalaya Public Health Engineering Deptt.
4. All Administrative Departments.
5. All Commissioners of Divisions.
6. All Heads of Department.
7. All Deputy Commissioner's/Sub-Divisional Officer's (Civil).
8. P.S. to Chief Minister, Meghalaya.
9. P.S. to Ministers/Ministers of State, Meghalaya.
10. P.S. to Chief Secretary, Meghalaya.
11. Cabinet Affairs Department with reference to their I/D No. OA-38/96, dt. 20.7.96.
12. Secretary, Meghalaya Public Works Department Muster Roll Workers Union, Quinton Road, Shillong.

By Order etc., Sd/- Under Secretary to the Govt. of Meghalaya, Personnel and Admv. Reforms (B) Department"

4. Under the said Scheme, a casual worker who has been working for a continuous period of not less than ten years may be conferred with a status of Regular Casual Worker from such date, not being a date earlier than the date the scheme came into force. The petitioner was initially appointed as a muster roll (skilled) worker in the office of the S.D.O. (PHE), RMS Mechanical on 02.03.1988 and the petitioner also submitted the joining report for joining as a muster roll (skilled) worker in the office of the S.D.O. (PHE) RMS, Mechanical Sub-Division, Shillong on 02.03.1988. The petitioner stated in the writ petition that inspite of continuously working for a period of not less than ten years as a casual worker, he has not been conferred the status of a regular casual worker under the said Scheme and he had also approached the authority for conferment of his status of a regular casual worker to him under the said Scheme vide his representation dated 15.04.2002. The respondent authorities sometimes in the year 2003 published a list of casual muster roll workers serving in the department, in that list, the name of the petitioner figured at serial No. 1. The petitioner also stated in the writ petition that he is entitled to conferment of the status of a regular casual worker and also the benefits under the said Scheme.

5. The respondents No. 3 and 4 had filed joint affidavit-in-opposition wherein, it is stated that the petitioner had been brought in the list of regular casual workers or in other words, the petitioner had been conferred the status of regular casual worker and he had been allowed to enjoy all the benefits as regular casual worker. In support of this statement in the affidavit-in-opposition, the respondents had annexed a copy of the letter of the Executive Engineer (PHE) Investigation Unit Division, Shillong dated 13.06.2013 to the Chief Engineer (PHE), Meghalaya, Shillong which includes the list of the regular casual workers,

in which the name of the petitioner appeared at serial No. 11. It is also stated in the affidavit-in-opposition that under the said Scheme, appointment to Group "D" post is made in such a manner that 50% of the vacancies in Group "D" posts are to be filled up by the State Govt. in compliance of the rules issued from time to time and the remaining 50% are to be filled up from amongst the regular casual workers working in the department or office as case may be and possessing the required qualifications. In the case of filling up of 50% of the vacancies from amongst the regular casual workers, the maximum age limit shall be relaxed by the total number of years served continuously as a casual worker.

6. Mr. K.P. Bhattacharjee, learned GA appearing for the respondents by drawing the attention of this Court to the date of appointments of the regular casual workers shown in the list annexed to the said letter of the Executive Engineer (PHE) Investigation Unit Division, Shillong dated 13.06.2013 contended that there are as many as 10 (ten) regular casual workers senior to the petitioner. He further contended that the case of the petitioner shall be considered as per his turn under the said Scheme.

7. In the above factual backdrop, this writ petition is disposed of by directing the respondents to consider the case of the petitioner for regular appointment in the vacancy of Group "D" post as per his turn under the said Scheme and also all the benefits under the said Scheme shall be extended to the petitioner.

8. With the above directions, this writ petition is allowed.